

**TOWN OF EAST FISHKILL  
PLANNING BOARD MEETING**

**FEBRUARY 16, 2021**

**Zoom Webinar Meeting**

Planning Board Chairperson John Eickman called the meeting to order.

Members present were Lori Gee, Ed Miyoshi and Richard Campbell and Sarah Bledsoe.  
John Cutler, and Christopher Tamulonis were absent;

Town Consultants present were: Michelle Robbins, Town Planner, Peter Setaro, PCL, Scott  
Bryant, P.E.- Town Engineer, Michael Cunningham, Esq., Town Attorney.

Jackie Keenan, Planning Board Clerk was also present.

**CHAIRPERSON COMMENTS**

a. Mr. Eickman began the meeting with the **Pledge of Allegiance**.

b. Mr. Eickman announced that the **UPCOMING MEETING DATES** are:  
**March 9, 2021 and April 20, 2021**

c. ***APPROVAL OF MINUTES OF MEETING Held November 17, 2020:***

**MOTION made by Lori Gee, seconded by Richard Campbell, to approve the  
Minutes of Meeting held November 17, 2020. Voted and carried.  
Sarah Bledsoe abstained.**

c. ***APPROVAL OF MINUTES OF MEETING Held December 8, 2020:***

**MOTION made by Lori Gee, seconded by Richard Campbell, to approve the  
Minutes of Meeting held December 8, 2020. Voted and carried.  
Sarah Bledsoe abstained.**

1  
2 **DISCUSSION:**  
3

4 1. **#2020-010 Morrow Crane 216 Lime Kiln Rd (6455-00-260640)**  
5

6 Proposed 26,000.00sq ft building for the assembly, maintenance, and  
7 distribution of mobile industrial cranes for construction.  
8

9 Terri Hahn, of LADA, P.C., Land Site Planners for Morrow Equipment Company LLC  
10 was present.  
11

12 Mr. Eickman announced that, this evening, the Planning Board would declare Lead Agency for  
13 Morrow Crane and a Public Hearing would be scheduled for the April meeting.  
14

15 **MOTION made by Ed Miyoshi, seconded by Lori Gee, for the Planning Board to**  
16 **Declare Lead Agency for Morrow Crane. Voted and carried.**  
17

18 **MOTION made by Lori Gee, seconded by Ed Miyoshi, for a Public Hearing to be**  
19 **held on April 20, 2021 for Morrow Crane Voted and carried.**  
20

21 Mr. Eickman asked if there was anyone present for the matter.  
22

23 Terri Hahn, LADA, P.C., Land Site Planners for the applicant, Morrow Equipment Company  
24 introduced herself, and asked if there was something the Board wanted her to speak about  
25 specifically. Ms. Robbins asked her to talk about changes made to the plan, the lighting that was  
26 added. She said there should be some discussion about the brush drop-off area and the potential  
27 for any conflict with Bog turtles restoration if it has to happen. She asked Ms. Hahn to give a  
28 quick summary of the project for those that were not at the last meeting and if she had a plan or if  
29 she wanted her to show the plan. Ms. Hahn said she had a power point, if that could be shared on  
30 the screen.  
31

32 Ms. Hahn said the project was located at 216 Lime Kiln Road and that, the call, although not  
33 intending to speak, were representatives from Morrow Equipment. Also present were

1 representatives from Keane and Beane, P.C. and the project Architect, LMV, in case questions  
2 come up.

3  
4 She began the power point presentation for the displayed plan entitled "Morrow Equipment  
5 Company LLC".

6  
7 **Proposed Project:** She stated the basics of the project is that Morrow Company does rentals for  
8 industrial cranes for the construction industry and their existing facility is in Millwood, it is too  
9 small, and they would like to move to this location. It is centrally located within their service area  
10 in New York State and she said it works very nicely. They have a basic Monday to Friday  
11 schedule and, although there are 25 employees, only 20 will be onsite. There is no lighting  
12 proposed in the storage area and very minimum trucks. She explained that, the way this works is  
13 that crane parts come by the truck, then gets reviewed, processed, and they have to make sure if  
14 any maintenance has to happen and it goes to the storage yard. Those parts then get put back on a  
15 truck and they go and get assembled at the construction site; there is no assembly on the site  
16 itself.

17  
18 **Project Location:** With the Location Plan displayed, Ms. Hahn stated that the project is on 25.96  
19 acres on Lime Kiln Road, zoned I-1. She said there were a couple of things that came up at the  
20 last meeting and there was a question if there were wetlands on the site and who has jurisdiction.  
21 She said NYSDEC decided that they have jurisdiction over the property, due to Bog turtles  
22 across the street. However, they decided not to take the wetlands for a wetlands permit, so the  
23 jurisdiction for the wetlands remains with the Town and Army Corps. No wetlands disturbance is  
24 proposed, but she said there is 1.25 acres in the 100 FT buffer area, mostly due to restoration that  
25 is going to be required for the conversations with the DEC regarding the Bog turtles and the  
26 transformation from a cornfield to meadow.

1  
2 **Existing Conditions:** At the site right now is an existing contractor recycling yard, the Town's  
3 brush collection area, that is located at the front of this property at the entrance. They were  
4 proposing to use the same entrance location and drive, but there is the existing cornfield towards  
5 the back of the site, the North side of the site, which is adjacent to the commuter lot, opposite to  
6 the DOT garage. The Bog turtle area itself is located on the West side along Lime Kiln Road.  
7 There are 2 wetland areas, Wetland A and Wetland B, and then NYSDEC, because of Bog turtle  
8 proximity, has determined that there is a 300 FT "Zone 2" on the site.  
9

10 **Proposed Project:** She said there is 26,000 SF proposed as a contractors' yard, as it is defined,  
11 and it is permitted use. They are going to use the existing entry, are required to have 43 parking  
12 spaces but, given the limited number of employees, they are proposing 24 spaces, with 19 spaces  
13 deferred. There is on site sanitary disposal and she said the individual wells will meet all the  
14 DEC requirements. Two variances are required; one is for a portion of the building to go 42 FT.  
15 In response to a recent change in the regulations that talks about material storage piles, their  
16 material storage piles are crane parts stacked on top of one another and would go to 30 FT high.  
17

18 Ms. Hahn gave what she called a general sense of where they are at, saying that the building is  
19 located more than 780 FT away from Lime Kiln Road. It is in excess of 1200 FT driveway to get  
20 to the buildings, located towards the back of the building, the back part of the site on the North  
21 side. Their closest dimension, which is the I-84 access ramp, is 280 FT to the building.  
22

23 **Yard Crane:** Ms. Hahn said one of the things talked about before, where there is a change, is  
24 that there is a yard crane that picks up the material, the individual power pieces which are about  
25 30 FT long, or so, and picks them up off of the trucks, puts them in the storage yard, from the  
26 storage yard to the buildings. She said it is located behind the building. At the last meeting, it was

1 talked about that the crane was 145 FT high. In response to some of the questions that came up,  
2 Morrow has re-looked at that. Instead of using a dedicated, specific type of crane that they have,  
3 they are actually going to take one of their work cranes, take it out of service, and install it here.  
4 She said it reduces the overall height to 137 FT, but more importantly, she said it reduces the  
5 overall Jib height from 100 FT to 90 FT high. She said they were able to reduce the height and  
6 this is as low as they can go; they really took the time to look at the crane heights, the crane  
7 pieces, to come up with the lowest crane that they could possibly come up with. She noted that it  
8 was talked about before that the ZBA determined the yard crane was equipment.

9  
10 **Proposed Building:** Ms. Hahn said an application was submitted to the ARB and there have  
11 been a number of changes that have occurred. The variance area was shown on a blue square,  
12 where the building goes up to the 42 FT high, which is just a portion of the building.

13  
14 **Office Area Texture and Color Upgrade:** The ARB requested a number of different changes to  
15 the office area, that she said has been added to the plans. She pointed out the offices section, a  
16 bump-out on the building in the right-hand image, saying that a stone veneer was added at the  
17 water line, being the ground up to the bottom of the windows. She pointed out the smooth panels  
18 that goes up to the grey area, which she said it is generally doing an upgrade to the entry office  
19 component. She said that is pretty much what the ARB was looking for, so those elements have  
20 been modified and they will be resubmitting back to the ARB for their final review.

21  
22 **ARB Approval:** Ms. Robbins said, just for clarification in the minutes, the ARB sent her a note  
23 that they had actually approved the plan, subject to the façade plan and that this was to be  
24 submitted, however, that they would not have to go before the ARB again. Ms. Hahn thanked her  
25 for the clarification, saying that they went back and forth and she was not sure how they were  
26 going to go. The intent is for a final set of plans to be forward to the ARB for their records.

1  
2 **Views of Building with Yard Crane:** Ms. Hahn said one of the things asked is what does the  
3 building look like with the crane, so that view has been added. It shows what the crane would  
4 look like behind the building, as coming down the project drive, coming towards the building,  
5 right at the parking area, so the crane can be seen behind it. A similar view is also shown,  
6 looking East, in the Western portion of the parking area, so there is a profile, a section across the  
7 site, looking at the building and the crane on the North side of the building.

8  
9 **Other Vertical Elements in the Vicinity:** Ms. Hahn said newer photographs were taken, right  
10 across the street. The location plan shows the very large cell tower that is on the Dot property. To  
11 the farther West is what she said is the rather extensive utility hole corridor that comes down the  
12 hill from the top, Lime Kiln Road, then down towards Route 84. From that view, she said it can  
13 be seen how DOT crane is above the trees, and kind of underneath the view spots for the people  
14 within the Zoom here. For the people talking, she said if this moves, there is an arrow shown  
15 towards the crane, over on the far right hand side of the screen.

16 Ms. Gee asked, as a quick comparative, if she knew how tall the cell tower is - and how tall the  
17 power line is. Ms. Hahn said she doesn't know with actual certainty but was trying to figure out a  
18 way to find this out. She said the cell tower shown here looks quite a bit higher than 150 FT,  
19 when one looks at how it towers over the trees, from a relative perspective. She said it is pretty  
20 high, but that she will try and find something more definitive. She said she guessed this the last  
21 time she was before the Board, but she doesn't really like to guess these things and she will try to  
22 come up with a more definitive answer.

23  
24 **Questions and Comment from Last Meeting:** Ms. Hahn said one of the questions asked was to  
25 reconfigure the lights along the entryway to add a pole at the driveway. They have done this, she  
26 said, as shown with a yellow circle on the displayed plan. A Drainage Report was submitted and

1 a Preliminary Erosion Control Plan. She apologized to Mr. Setaro, saying she knew she had just  
2 sent them to him yesterday and she knows he has not had a chance to look at these.

3  
4 Mr. Setaro said that was ok, and he wanted to add, for the Planning Board, that he did have a call  
5 yesterday with Christian Paggi at Larry Paggi's office. One of the comments was that a full Storm  
6 Water Pollution Plan needs to be provided. He said Mr. Paggi will explain that they were hoping  
7 to provide a full Storm Water Pollution Prevention Plan once SEQR determination is made and  
8 that, at this point, they just submitted hydraulic calculations to compare pre - and post -  
9 development runoff to make sure there isn't going to be increase in Storm Water runoff, off of the  
10 site after the project is built. He said he does not have a problem with this and the most important  
11 thing for SEQR purposes is the hydraulic calculations. He said the rest of this is pretty much  
12 standard stuff that is in the book. He said he will take a look at the hydraulic calculations and will  
13 go from there. He said, having worked with Paggi's office in the past, they usually do a good job.  
14 He said they will get something out on this separately, but he does not have an issue with holding  
15 off on the full SWPPP until after the SEQR determination has been made.

16  
17 Ms. Hahn said the notes on the erosion control plan state that, although one of the phases is a  
18 little convoluted, they were able to create phases that were 5 acres or less for the erosion control.  
19 She said, in terms of the SEQR perspective, that is one of the big things. Mr. Setaro said okay  
20 and thanked her. Ms. Gee asked if they have the phasing plan and Mr. Setaro said Yes, they got it  
21 yesterday. Ms. Hahn said it was digitally delivered yesterday, and the paper copies are coming as  
22 well; they are on the way. Ms. Gee said she did see it and thanked her.

23  
24 Ms. Hahn said the other comments were more minor issues associated with the plan. The EAS  
25 got modified; they did go to the initial ARB, the ZBA application is in process and they can't

1 make a decision until SEQR is over; they are making sure they have all their "I's dotted and T's  
2 crossed before that application is triggered. She said this was her summary.

3  
4 Ms. Hahn said there had been a question about the brush collection area and asked if there was  
5 something she should answer. Ms. Robbins said, at some point, there should probably be some  
6 fencing along the boundary area. She does not know if it will be a requirement related to the  
7 (Bog) turtles, or not, but she said the brush area could certainly be demarcated on the site and  
8 will also need to be shown on the plan.

9  
10 Ms. Robbins said she noted that a sign is there and asked Ms. Hahn if she had any idea of what  
11 the sign would look like, at this point. Ms. Hahn said the sign is shown on the site plans' detail  
12 sheets and she did not have direct access to it, at the moment. She said it was part of the original  
13 submission, before December, and continues to be on the detail sheets, so it shows what is there.  
14 Ms. Robbins said for the Planning Board to note where sign is located, as it was being pointed  
15 out on the plan.

16  
17 While outlining it on the plan, Ms. Hahn said, with respect to the brush area, that the DEC  
18 wanted to be sure that they cannot go beyond the outlined area and that, ultimately, there would  
19 be a fence. She said it is not a screen fence, but probably a 2-rail fence, or something just so the  
20 use of the area, as she was pointing out, can't expand; it cannot go closer to the wetlands. She  
21 outlined the larger area, saying the use area for the brush everything and pointed out where they  
22 do not like the area proximity to the trees. She pointed out where the wetland limit was way in  
23 the back but, because it is within the 300 FT Bog turtle zone, the DEC is saying that they want to  
24 see that reclaimed, go back to meadow, and just let it be a potential turtle habitat. Ms. Robbins  
25 thanked Ms. Hahn.



1 Mr. Setaro asked Ms Robbins if there needed to be some kind of easement on that for the Town,  
2 or was this discussed internally. Ms. Robbins deferred this to the attorney.

3  
4 She had another question for Ms. Hahn, asking if there could be shielding on the lights; she did  
5 not know which direction they would be shielded, but said they are shielded towards the turtle  
6 habitat area. Ms. Hahn said to notice the light fixtures proposed, which are dark-sky compliant,  
7 with very limited throw, all LEDs. She pointed out the outer line of 0.25 FT candles, and the .1  
8 FT candle, and said by the time it got there it is nothing, it is a zero. She said the days in the past  
9 when house size shields were put in, she finds there is more control the LEDs and that the shields  
10 really don't make sense anymore.

11  
12 Ms. Gee asked if the color of the crane it was ever confirmed with the ARB. Ms. Hahn said, from  
13 their previous applications in other towns, a lot has been done by them, a lot of experimenting  
14 with colors, and doing 3D modeling against the sky. They have come to the conclusion that the  
15 light gray color, which is consistent with the color of cell towers, and the utility towers, is the one  
16 that fades the most often. She said that all other colors-white, black, green, at some point over the  
17 year or in specific weather, shows up much more dominantly in the sky than the gray color. Ms.  
18 Gee asked if this was settled then that gray is the color and Ms. Hahn said their proposal is for it  
19 to be light gray colored. Mr. Eickman said that pretty much matches the color of the top of the  
20 building. Ms. Hahn said it matches the lighter gray of the building; there is a darker gray color  
21 and a lighter gray color. Mr. Eickman said he thought it fit it nicely.

22  
23 Ms. Gee asked if there would be signage on the top of the crane. Ms. Hahn said her client would  
24 love to tell that their name is on the crane, but she made them take it off for the images. The only  
25 thing she did not know at the moment, which is not subject to this Board, was the FAA  
26 requirements; she does not know about the little red light on the top. Ms. Hahn said she does not

1 have any control over it and if they want it, then it has to be put on there. Ms. Gee asked Ms.  
2 Robbins if putting a sign on the crane would come back to the Planning Board or another. Ms.  
3 Robbins said the sign code doesn't typically allow parked trucks to have advertising on the side.  
4 She said she would have to read through the code to see if there is anything strictly to that, or  
5 allowed. Her guess is that it may be allowed. Ms. Gee said she saw that the decision of the  
6 Zoning Board was that this is considered equipment on the site, versus a building, or anything  
7 affixed. She said she is guessing it is the same as a truck would be. Ms. Robbins said that is what  
8 she would assume, but she will definitely take a look at the code and also told Ms. Hahn she  
9 would see what she can find out for her. Ms. Hahn said she is assuming the same thing, at this  
10 point. Mr. Cunningham said it is deemed as equipment and is not a permanent fixture.

11  
12 Mr. Bryant questioned if the crane is approximately 160-170 FT high. Ms. Hahn said it is being  
13 proposed at 137 FT. Mr. Miyoshi told Mr. Bryant that it was changed. Mr. Bryant said that the  
14 crane isn't being used to build an 8-story building and asked the particular reason why it has to be  
15 so high. He asked if materials were being stacked that high in the air. Ms. Hahn replied that it is  
16 because of the length of the crane sections that this is going to pick up, it has to pick it up, go  
17 over the materials section and then go over the top of the building. Mr. Bryant said crane sections  
18 are usually horizontal on a flat bed trailer, a 5 or 6 foot cross section; He asked if the building  
19 was 35 FT high. Ms. Hahn replied that the middle section is 42 FT. Mr. Bryant said if it is 42 FT  
20 high then there seems to be a lot of leeway there. Ms. Hahn said, one would think so, but they ran  
21 the numbers to make sure; the way the jib works, it is 90 FT underneath the jib where the foot is,  
22 but they made it down to the shortest that they possibly could. She said there is enough clearance  
23 but there is not an extra 20 FT high. Ms. Hahn asked Peter Juhren, from Morrow if he would like  
24 to respond to this.

1 Mr. Juhren said there is the 90 FT for the jib and, below that, the foot hangs, which is 10 to 15  
2 FT below the underside of the jib. He said that, attached to that, are the slings that are used to  
3 raise and lower the components. He said they are usually about 20 FT long. From the bottom of  
4 the jib to where the load is, typical loss of about 40-45 FT lost of actual height. He added that is  
5 why the crane needs to be at that elevation. Mr. Bryant said that is something that would be laid  
6 out on paper and he asked that it be forwarded to the Board so they can take a look at this. Mr.  
7 Juhren said he could put together something showing just how the jib works. Mr. Bryant said  
8 there should be a note that, in factoring in, the crane height was considered. He told Mr. Juhren  
9 then he should have it sent out pretty fast. Mr Juhren said they could do a drawing pretty fast and  
10 would get it out.

11  
12 Mr. Eickman thanked Ms. Hahn and Mr. Juhren for their time and the presentation.  
13  
14  
15

16 **DISCUSSION:**  
17

18 2. #2019-019 **Hopewell Senior Living**, Joe's Mother's Road and Route 82 (6357-04-  
19 924400) Applicant has submitted for a Senior Independent Living Apartment project with 90  
20 units, an existing dwelling to be converted to a community space, and associated site amenities.  
21 The site is located in the R-1 zone and the applicant is applying for a special use permit for  
22 Senior Apartment Living Complexes.  
23

24 Mr. Eickman announced that the applicant had withdrawn from being on this evening's agenda,  
25 but will be back to the Planning Board in March, and this will be taken upon again.  
26  
27  
28

29 **SKETCH PLAN:**  
30

1 3. #2021-003 **NJC Associates/Shady Lane**, Route 52 and Shady Lane (6656-00-413028,  
2 6656- 00-448027, 6656-01-439994) Applicant has submitted a sketch plan for a 3,400 sf office  
3 building for construction trailer and port-a- potty sales and rentals and a 970 square foot  
4 caretakers unit.

5  
6 Mr. Eickman asked Ms. Robbins to give an overview of this project.

7  
8 Thomas Balassone and Ms. Castro Castro were present on the webinar for Shady Lane.

9  
10 Ms. Robbins shared her screen, and asked Mr. Balassone to walk the Board through what he was  
11 proposing, and that she would point out the areas he talks about. Mr. Balassone said he  
12 highlighted the plan in different colors and directed Ms. Robbins to point out that the main office  
13 building. He said there is the caretaker quarters that revolves around the back. Ms. Robbins  
14 wanted to orient everyone as to where this was being shown, saying that it is on Route 52, across  
15 from Package Pavement. Mr. Balassone said that was correct. Ms. Robbins stated that he has said  
16 this was a former nursery and that it had not been a nursery for years. What is shown as offices  
17 (highlighted in purple), she said is the former commercial area for the nursery. She pointed out  
18 the areas where nursery materials had been stored and planted and the preexisting house, saying  
19 it is 3 parcels. She pointed out parcel that is B-1 and the other 2 parcels that are R-3. The house  
20 has always been located in the B-1 zone and has been occupied. She pointed out the location of  
21 the greenhouses, and the main retail portion of the nursery. Mr. Balassone said that is correct and  
22 what they are proposing is to resonate some violations that are currently on the main building for  
23 the main office. He said some of the violations that exist are change in occupancy, Certificates of  
24 Occupancy and a Site Plan Approval for a model trailer that they would like to have along the  
25 Route 52 corridor. He said that is highlighted in yellow. Ms. Robbins said the site was vacant for  
26 a while, Mr. Balassone purchased it and he has a business that he wants to run out of it. Mr.  
27 Balassone said that is correct. She pointed out the location as the B-1 zone for the construction  
28 rental business for construction trailers and port-a-potties. Mr. Balassone said that is correct, they  
29 buy and sell and also rent those units, as well. Ms. Robbins pointed out where the offices would

1 be and Mr. Balassone said that was correct. she then pointed to the area (highlighted in yellow)  
2 where they want to put a model trailer. Mr. Balassone said that is the area where there used to be  
3 3 greenhouses and t hey have since been taken down; they were demoed back in 2019 and a large  
4 concrete pad remains there, that would house the model trailer. He said people could actually  
5 look at the capabilities and possibilities for the different options for filling up the trailers.

6  
7 Ms. Robbins said this has been a tricky site for a long time. There are a lot of pre-existing, non-  
8 conforming issues on the site. One of the issues is that the road that bisects the property leads  
9 back to 2 homes and another parcel that is virtually landlocked. She pointed out the access to the  
10 residences, saying it runs straight through the property. There is also a garage that is currently  
11 storing port-a-potties and Ms. Robbins asked if they were all currently indoors. Mr. Balassone  
12 said they are not. Ms. Robbins said then there are some outdoors and some indoors. Mr.  
13 Balassone said that is correct. Ms. Robbins pointed out the location of the construction trailers,  
14 which Mr. Balassone said was correct. She said this site has to be thought about how it is in  
15 violation right now, because it does not have Site Plan Approval for the business and some work  
16 was done on a portion of the site where there is an accessory. She said that, technically this can  
17 be allowed and they were working towards a caretaker unit, which would mean going to the  
18 Zoning Board for approval and a special permit. She pointed out the section where there are uses  
19 that are typically not allowed in a Residential Zone.

20  
21 Ms. Robbins said, for purposes tonight, they just wanted to introduce the site to Planning Board  
22 and so they would know what is going on there. She said it is complicated and they need  
23 feedback about the business; it is a rental sales business, however, there is also equipment being  
24 stored. She said that is something that has to be understood and the access drive is tricky, steep  
25 and currently not paved for any of the length; it is gravel all the way up. Mr. Balassone said they  
26 stated the material and the grade is approximately 11%. Ms. Robbins pointed out another item on

1 the plan, asking if it was a shed. Mr. Balassone said no, it is actually a 2-car garage. He said there  
2 is a 3-car garage on the R-3 property, at 16 Shady Lane, labeled as purple. The other one, on the  
3 B-1 property is a 2-car garage and he said the house is further upwards, at 19 Shady Lane. Even  
4 though the 19 Shady Lane and 5 Shady Lane are on the same lot, it is 2 separate parameters.  
5 Currently there are 2 parcels above these properties; one is occupied and he said they have a  
6 right-of-way for that driveway. One is unoccupied and he said it has been in foreclosure for 5 or  
7 more years. He said they have inquired about this but the bank has not responded. The third  
8 property at the top of the hill that was said to be landlocked, has a bit of road frontage on Route  
9 52 - but they do not have a right-of-way to use the driveway. He said that currently there are only  
10 2 right-of-ways on file.

11  
12 Ms. Gee asked Ms. Robbins why 19 Shady Lane would not be considered an accessory  
13 apartment; it seems like there are 2 residences now on the business site. Ms. Robbins said yes,  
14 there are violations on the property so when an accessory is put in the location, as she pointed  
15 out, without permission or a permit, or approval, The house is existing and rented on the site and  
16 she pointed out what was the commercial business. Mr. Balassone said there was always an  
17 accessory apartment, upstairs from the business. He said he does not know if there was a special  
18 permit for that or not; it was already existing. Ms. Robbins said it may have pre-existed and she  
19 is not sure that she has records for this.

20  
21 Ms. Robbins said that they are obviously operating without a site plan approval and that is one of  
22 the host of issues here on this site. She said the Board is looking at it in general, because this has  
23 been a difficult site for a long time now and they are trying to make sure it fits with the zoning  
24 and approval that the Board may be able to bring.

1 Mr. Bryant said he knew there had been discussion about the location of the driveway. Ms.  
2 Robbins said Yes, the previous owner had considered, at one point, to take the driveway and  
3 move it from there, and she pointed out where it would skirt the side and have access. She said it  
4 was discussed and they ended up selling the property. She said she had mentioned this to "Ms.  
5 Castro" and she believes it would be quite costly to install the driveway; that is not their  
6 preference. Mr. Eickman asked if it was a problem that it bisects the property; he was not sure he  
7 understood. Ms. Robbins said it is pre-existing and that there is not supposed to be a shared  
8 driveway that goes through commercial properties or a residence. Mr. Bryant said it has been  
9 there for more than a year. Ms. Gee asked Ms. Robbins if rezoning had been looked at to rezone  
10 any of this to a different zone. Is it more compliant if the 2 R-3 are maybe moved to a B-1 zone  
11 and maybe carve out the 19 Shady Lane to make it a residential lot. Ms. Robbins said that was  
12 discussed with the previous owner, potentially carving out the residential lot - and swapping the  
13 zoning. She said it is ironic that the one is a B zone and the other, residential. She said it was  
14 talked about with the previous owner, and they went through a lot of iterations with them; she  
15 thinks they really wanted to sell, and eventually they did, so nothing got done with respect to this.

16  
17 Ms. Gee said how much of the non-conforming condition is repaired by making the 2 lots  
18 commercial B-1 instead of R-3. Ms. Robbins pointed out where she questions if it was a  
19 contractor's yard or a rental sales equipment yard. She said this is the kind of thing that was  
20 talked around before for other projects; it is defining the uses and if it can be in a B-1, The sales  
21 office, the store rental can be in the B-1 but it is the storage of the equipment. Ms. Gee said,  
22 whatever the zone would be, she thinks that this is not an invasive use; again, should it be on a  
23 residential parcel, but it feels like there is something that could be done with zoning, to allow  
24 business use. She said it has been, for years, even if it was not this particular use. Mr. Miyoshi  
25 said it is residential there, with Package Pavement across the street, it is not like that is a

1 neighborhood. He said he does not see a problem with doing some sort of re-zoning to get this as  
2 good as they can.

3  
4 Ms. Robbins pointed out where the residences sit higher and where the buffering was talked  
5 about to give the residences a buffer for noise. For the large part, she said she felt it is not really  
6 invasive to the neighbors and they can't see what is going on there. Mr. Eickman questioned if  
7 there have been no complaints. Ms. Robbins said she knows of no complaints from any of these  
8 neighbors. She thinks there have been some complaints from people driving by, about the  
9 appearance of the site. She pointed out the area where there had been a construction trailer for a  
10 while and said there were some complaints. She said she did not know of complaints received  
11 about the blue section of the site. Mr. Balassone said the construction trailer has since been  
12 removed, until they can come to some sort of agreement about what can be done.

13  
14 Ms. Gee asked Ms. Robbins how wide a strip of land would be to not be considered a flag and  
15 Ms. Robbins replied that it would have to be 5- FT. Ms. Gee asked how wide it would be to not  
16 be a flag lot. Ms. Robbins said then she meant a building lot and Ms. Gee said Yes. Ms. Robbins  
17 said then it is 125 FT. Ms. Gee said here thought is, if the properties could somehow be  
18 bifurcated, so that there is business on the right and business in the front, and then give the  
19 residential lot in the back enough frontage so there could be a shared lot with the driveway  
20 behind it. She said there could be something so there is not the issue of B-1 zoning on the  
21 residential drive and if the residential lot could be made to include a wide enough strip, then it  
22 could be a shared drive, with the lot behind it. Then the rest of it and in the front would be  
23 business.

24  
25 Ms. Robbins said they did try to figure out how that might work, with swapping. Right now, she  
26 said she just wanted to introduce the Board to the property and have everyone think about it a



1 little bit. They are in violation now, but because they are in front of the Board trying to work this  
2 out and contemplating what could maybe happen on the site.

3  
4 Mr. Bryant asked if Mr. Fitzgerald was there and Ms. Robbins said she thought he had maybe  
5 dropped off. Mr. Bryant said, being this may have been a nursery, he wasn't sure what it has in  
6 the way of DOT driveway permits. The fact that they are going from cars to the long construction  
7 trailers, in and out, he thinks the driveway access for this road should be clarified with the DOT  
8 to make sure they don't have any issues with it.

9  
10 Ms. Gee told Ms. Robbins it is a good point if there was a way to make the residential parcel  
11 include the shared drive. They would have to figure out how the shared drive becomes part of  
12 some type of entrance or egress for the B-1 parcel, as well. Ms. Robbins said she thinks the  
13 previous owner actually got to the point where they brought it to the DOT, and they actually had  
14 some plans, where the previous owner drew up a concept. She thinks they did start conversations  
15 with the DOT and pointed out the portion of the driveway. She said that she would go back in her  
16 notes to see this and would pass it around to everyone to look at.

17  
18 Ms. Bledsoe asked about the residential lot on the property, and the intent of that, with the  
19 accessory unit building. She asked if they were intended to be long term, income producing  
20 properties. Or, she asked, was it necessary for employees to stay there for some purpose; what is  
21 the long-term idea behind the residential. Mr. Balassone responded that 19 Shady Lane, from  
22 what he understands as its history, is that it has always been a house for rental income property;  
23 that is how it was presented to them when Ms. Castro purchased the property. The living quarters  
24 above the office is occupied by her daughter and is more like a caretaker's quarters. If employees,  
25 or anyone else, needs to enter the office after hours, she is there. He said 19 Shady is for income  
26 and 5 Shady, which is above the office, is really just a caretaker. Mr. Campbell asked about the

1 garage in between, was that utilized by 19 Shady Lane, or utilized by 5 Shady Lane. Mr.  
2 Balassone said it is utilized by the business, 5 Shady Lane; they store their paper goods in there  
3 and supplies for their business.

4  
5 Ms. Robbins suggested a site visit to the Board and the members agreed. Ms. Robbins said she  
6 would note her calendar to reach out and see if a sit visit could be arranged. Mr. Campbell said  
7 he has a tendency to agree with Ms. Gee, that some of the issues could be mitigated by redefining  
8 the zoning for the majority of the property. He said his only concern is definitely the activity  
9 between the business and the homes in the back, making up the 3 residential properties: 19 Shady  
10 Lane and the 2 that are beyond the green driveway shown on the plan going up. He said he  
11 doesn't know how that would function; he doesn't know how active the business would be,  
12 together with the traffic from the residential down on that same driveway and one really has to  
13 try to understand that whole thing, if the Board is going to get involved in them having to pursue  
14 changes to the zoning. Ms. Gee said they would have to make sure the travel way is residential –  
15 and not business. Mr. Campbell agreed. Ms. Gee asked Ms. Robbins if the “landlocked” parcel  
16 has frontage, but she thought it was not buildable. Ms. Robbin pointed out the hill on Route 52,  
17 saying it was difficult; there are steep slopes and rock and she said it would be very expensive to  
18 put in a driveway there. Ms. Gee said there would be significant cut into the rock there and Ms.  
19 Robbins said that is correct. Ms. Gee said there are essentially 2 lots that currently have access to  
20 the right-of-way and there is probably access to the third “landlocked” because of the  
21 inaccessibility of their frontage. She said, ideally, they don't want to have a landlocked visible  
22 parcel in the Town and they would want it to have access here. She told the applicant, she is not  
23 committing them to anything she was just saying that an issue is seen as the Board is looking at  
24 zoning and some of these changes; there may be a way to give whoever the property owner is,  
25 some relief. She asked if it was commonly owned and if that was what Mr. Campbell was asking.  
26 He said Yes, he is feeling the same thing and if, sometime down the road, there is some

1 development for the “landlocked” piece of property, then there is an additional uptick of activity  
2 on the right-of-way. Ms. Robbins said that lot was a Christmas Tree farm and it was sold  
3 separately. Because there is no driveway access right now, she said they wouldn’t be able to  
4 create a driveway or be able to use. Mr. Balassone said there isn’t a driveway into the Christmas  
5 Tree lot; one drives up to a certain point and there are trees growing in the middle. He said it is  
6 just barren there. Mr. Campbell said, to Ms. Gee’s point, is that the Board would like to see  
7 something be able to take place there. He said having that all in mind and, looking to the  
8 applicant, saying not having him commit to anything, the Board would have to look at the whole  
9 project. Mr. Balassone said they would take this into consideration, for sure. Ms. Gee asked Mr.  
10 Balassone if he knew the property owner. He replied that they are not related to him; there has  
11 been some talk between Ms. Castro and some of the owners. There are 2 brothers who own the  
12 property and his understanding is that one wants to sell and the other does not. He said Ms.  
13 Castro made an offer on the property and, when they come to an agreement, he believes at that  
14 point, Ms. Castro would be considering the sale. Ms. Gee asked how large the parcel was and  
15 Mr. Balassone replied 5.43 acres. Mr. Campbell asked, if Ms. Castro were to acquire the  
16 property, would that become or would they approach the Board to make that parcel a part of this  
17 project. Mr. Balassone replied that he, nor Ms. Castro haven’t thought about that property, or the  
18 property attached to lot 440865, which is the second house with the right-of-way. He said this has  
19 been foreclosed for over 5 years and they have inquired about that, but there is no response from  
20 the bank. He said the only property above the green driveway shown on the sketch plan is 415070  
21 and there were no problems with them, whatsoever. There is a very well working relationship,  
22 and no issues up to this date.  
23 Ms. Robbins said to Ms. Gee that he said the property was 5 + acres in the back. Ms. Gee said  
24 then it is R-3.

1 Ms. Robbins said she thought the discussion could be tabled for now and to set up, schedule a  
2 site visit there. Mr. Campbell said he agreed.

3  
4 Mr. Setarao said maybe the applicant could explain the porta-potty rental business and he asked  
5 if he works with a local sanitation company. He said he has some experience as an engineer in a  
6 neighboring town, to their planning Board and there is an application from a local sanitation  
7 company to locate their yard there. He said they also store quite a few porta-potties and there is a  
8 lot of concern from the neighbors, in term of the porta-potties, how they are cleaned, are they  
9 pumped out before they come back to the site. He said maybe this applicant can explain how that  
10 part of the business works. Ms. Castro explained that the porta-potties are actually cleaned before  
11 they are put on the truck and the DOT wants them clean before they even go on the road. She  
12 said they are pumped before they leave the site and come back to her business and they are stored  
13 neatly in the yard. They are cleaned and prepared to go to the next rental; they are cleaned and  
14 sanitized on the site as soon as they get them. Mr. Balassone said this includes the trucks as well  
15 and the trucks have to weigh daily, so they empty at weigh stations, prior to coming back to the  
16 yard. He said there is never any waste in the trucks, or the johns, when they enter the site. Mr.  
17 Setaro asked if there would be any waste hauling trucks that would be parked overnight. Mr.  
18 Balassone replied Yes and Ms. Castro replied the trucks are parked overnight there. Mr. Setaro  
19 said that is a little bit of a concern, especially with the neighbors being on wells on the site. Ms.  
20 Castro said they are always empty before they get to them because if they are not emptied before  
21 overnight, they will freeze. Mr. Setaro said that is the same as his understanding in this other  
22 application that he is reviewing and, as they get into this, it is something that the Board needs to  
23 go and look at. He said there would have to be a lot of notes that are placed on the plan as to how  
24 they are cleaned so it can be made sure; He said he is not saying they are going to do it, but, if  
25 there is any cleaning that is done on the site, he wants to make sure the Town is covered so if the  
26 Town wants to enforce anything, that there are appropriate notes on the map. Mr. Balassone said

1 that is fair, Yes. Mr. Setaro said it is something that could be worked. He asked the applicants if  
2 they had their own waste hauling business. Ms. Castro replied of course, Yes. Mr. Setaro said ok,  
3 he did not know that. He added that it is just something that will have to be worked through. Mr.  
4 Balassone told Mr. Setaro that, in the application, there was an introduction to the business “NJC  
5 Associates”, with a site map and some other things, but he was not sure if he had it yet. Mr.  
6 Setaro said No, the consultants had not yet seen it and he thinks this is the initial plan. Mr.  
7 Balassone said Yes, the Sketch Plan. Mr. Setaro said he did not think he had it and asked Ms.  
8 Robbins and Ms. Keenan about it. Ms. Kennan replied that No he didn’t get it and that she has it.  
9 Ms. Gee said this is just a sketch session and there had not yet been any professional review. Mr.  
10 Setaro said he has familiarity with a similar application in another Town and that there are just  
11 some things that will have to be worked through.

12  
13 Mr. Campbell asked if the corporation exists at another site currently. Ms. Castro replied yes, in  
14 New York City. Mr. Campbell said then nothing in Dutchess County and Ms. Castro said No.  
15 Ms. Robbins said to Ms. Castro that she thought they worked out of Carmel at some point. Ms.  
16 Castro said Yes, they worked out of Carmel and they have moved from 9 Fair Street to Shady  
17 Lane.

18  
19 Mr. Setaro asked, Ms. Castro out of curiosity, how many porta-potties she thought would be here  
20 at this site at one time. Ms. Castro replied, for the most part, there would not be many and most  
21 of them are out to rent, so at any one time there would be maybe 25 to 30 on the site; the rest of  
22 them are all in rentals. She said the specialize in heavy highway construction and they tend to  
23 rent quite a few at a time; they are out on the job sites anywhere between 6 months to 3 years,  
24 depending on the size of the construction. Mr. Balassone said there could be 30 in the yard today  
25 and 30 in the yard tomorrow. Mr. Campbell questioned, aside from the individual porta-johns,

1 were there any larger structures. Mr. Balassone said Yes, and Ms. Castro replied there would be  
2 trailers too.

3  
4 Ms. Bledsoe asked about the construction and outfitting of the trailers as being done on the site,  
5 at any given time. Mr. Balassone replied that they are basically cosmetic renovations, which  
6 would be paint, flooring, maybe a window if there was a broken piece of glass, or something like  
7 that. Mr. Campbell said then the units are bought basically already constructed. Ms. Castro said  
8 Yes, they are standard units that have 2 offices on each side and a space in the middle. They are  
9 bought and come to them sometime a little beat up, the cosmetic is done, and then they are ready  
10 for the next run.

11  
12 Ms. Robbins told Mr. Balassone and Ms. Castro she would be contacting them when there is less  
13 snow and when it would make sense to go out and do a site visit. They both replied that was fine.  
14 Ms. Robbins said she would send an email around to the Planning Board and they would go out  
15 to check out the site. She told them she thinks it would make a little more sense if they are there.

16  
17 Mr. Eickman thanked Mr. Balassone and Ms. Castro, saying he looked forward to going out and  
18 they responded, thanking him for the Board's time.

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29 **SKETCH PLAN:**

1  
2 4. #2021-002 **Valley Pediatric**, 2 Jay Lane (6457-03-473205) Applicant is applying for a  
3 minor site plan amendment to add handicapped access ramps to a pre-existing dental office. The  
4 applicant is proposing to expand the dental office by constructing administrative offices in the  
5 basement of the building.  
6

7 Richard Tompkins, RA, AIA, Mauri Architects, PC was in attendance.  
8

9 Mr. Tompkins said that the building is an existing dental office and they are looking to move a  
10 new dental office in. He said there is additional square footage in the basement that is vacant, and  
11 the plan is to use this for the offices. He shared the plan on the screen, saying there is the  
12 existing dental office with parking and all the other site amenities, such as lighting, landscaping.  
13 There is currently a handicapped ramp that is on the East side of the building and a front porch  
14 and stairs, which he said is the main entrance, on the West side of the building. A new  
15 handicapped ramp and deck is proposed on the East side of the building and the existing  
16 handicapped ramp really does not meet handicapped accessibility requirements. He said that,  
17 obviously, with some of the renovations that they would be doing in the basement, with the new  
18 building codes, it would require that it be brought up to code, as well as providing an additional  
19 handicapped ramp, which would be on the West side of the building, where the main entrance is,  
20 and with the parking. He said that those are basically the exterior renovations that they plan to  
21 make to this application. On the North side of the building, on the right side, there is an exit stair  
22 from the basement level. Unfortunately, he said, the risers do not meet code requirements and the  
23 lifts do not meet code requirements. He said they would be rebuilding this. It is a dug out of the  
24 ground because the basement level is basically a flight below grade there. He pointed out on the  
25 plan where the septic system is located in the front yard, saying that the plan is to abandon this  
26 and to connect to the Town sewer connection so there isn't the worry about septic issues in the  
27 future.  
28

1 Ms. Robbins asked Mr. Tompkins to talk about the basement offices and if they were unused  
2 currently; is it a full basement or what part of it is planned. Mr. Tompkins said the existing  
3 building is about 3,200 SF per floor and that the existing lower level does have some finished  
4 space; About 1,200 SF is unfinished space, so the plan is to finish the 1,400 SF space. He said it  
5 would just be administrative offices and the majority of the downstairs space is an open floor  
6 plan. There are office cubicles, 2 enclosed offices and a small call center, to deal with any daily  
7 phone calls.

8  
9 Mr. Campbell asked about the egress in the basement; was it one, single space that is facing  
10 Route 376 that is only egress. Mr. Tompkins replied Yes, that would only be egress, correct. Mr.  
11 Tompkins asked, besides that, is there any other egress for emergency on any other sides of the  
12 building. Mr. Tompkins said there is a new exit there that would be constructed inside and would  
13 be located on the West side, where the main entrance is. Mr. Campbell said that exits through the  
14 first floor, or not to the outside. Mr. Tompkins said the exits t here would have a direct exit to  
15 the front porch. On the front porch they are relocating the existing entrance about 8 FT or so. He  
16 said then there will be a second means of egress door to that covered porch. Mr. Campbell  
17 questioned if it was any type of eyebrow windows or any that would have light into that  
18 basement – or is it just those areas. Mr. Tompkins pointed out the North and South walls saying  
19 there are a few windows that are existing into that space and so there will be natural lighting into  
20 the space. He said that is one of the reasons that they are trying to keep it as an open floor plan,  
21 so that it is not enclosed with small offices.

22  
23 Mr. Eickman said he may have missed why there are 2 handicapped accesses on different sides of  
24 the building and asked was it because there are separate offices that need to be accessed. Mr.  
25 Tompkins said No, on the West side again, which is near the parking area, that is the main  
26 entrance. He explained that one reason is for entrance purposes, for handicapped accessibility,



1 bot also that both exits are required to be handicapped accessible. He said there is an existing  
2 exit that is on the East side of the building, which is facing Jay Lane. The handicapped ramp is  
3 being rebuilt because currently it does not meet accessibility codes. That is the reason for the one  
4 on Jay Lane and the one near the front is really just an entrance ramp, as well as an egress ramp.  
5 Mr. Eickman asked if handicapped parking is located next to both of the ramps Mr. Tompkins  
6 replied that the ramp on the East side, which is Jay Lane, is strictly going to be excavated. He  
7 said they do not expect anyone to use that rap to come into the building and, as can be seen in the  
8 upper left corner of the plan, there are 2 handicapped parking spaces. Mr. Campbell asked if the  
9 parking that is on the plan matches what is there today or, is this expanded upon. Mr. Tompkins  
10 replied that this is the existing layout, today and the plan is to reseal and stripe the existing, so  
11 that would be back to the same number of spaces. Ms. Robbins said, if that is done, it might  
12 make sense to move one of the handicapped spots if this is going to be re-striped, on the side. Mr.  
13 Tompkins said it was thought about a little bit but the only issue is the existing depression for the  
14 curb in the corner. He said that is why the 2 striped spaces are there and they did think about  
15 trying to combine it so that the one striped space would actually increase parking by one space.  
16 He said this has to be looked at to see how it reconfigures the front sidewalk near the stair.

17  
18 Ms. Gee asked Ms. Robbins if she had already looked at the parking calculations for this. She  
19 replied that she did; about 35 spaces are needed and 38 are being provided. Ms. Gee asked if the  
20 35 would include the ne offices space, for additional employees and she is assuming there will be  
21 additional employees. Ms. Robbins said he is not sure if this is a completely different practice  
22 coming in or if it is the old practice that moved out, or a new practice coming in. She did not  
23 know the number of spaces that had been provided before, but she calculated the parking with the  
24 SF and number of employees.

1 Ms. Gee asked, with an entrance like this and the accessibility, would it be considered a minor  
2 action. Ms. Robbins said Yes, it is a minor amendment to the site plan. There was no existing site  
3 plan on record in the Planning Board office and she said they were making some modifications  
4 that were new on the site plan. They are also adding space in the basement. She said they were  
5 asked to provide a site plan showing all these changes.

6  
7 Ms. Gee asked if this includes the lighting locations and she is assuming nothing else needs to  
8 change and is staying the same. Ms. Robbins said Correct. Ms. Robbins has asked about the sign  
9 and the signage is going to be replaced, at a different location.

10  
11 Ms. Gee asked about changes to landscaping and Ms. Robbins said Not that she knows of. Mr.  
12 Tompkins said they really are not changing any of the lighting or landscaping. He pointed at what  
13 he said is a little bit of landscaping bushes that are on the North side of the building by the exits  
14 there from the basement that may have to be relocated just to make that stair wider, or removed.  
15 He said there are some bushes in the front along Jay Lane and, because that ramp is being made  
16 wider, those small bushes will also have to be removed. Ms. Gee asked if they would be  
17 replanted, out further. Mr. Tompkins said he is not sure if they are able to relocate them or not.  
18 Ms. Gee said the septic area is being abandoned and he replied that it is not on the plan to put in  
19 new bushes but that is something that they certainly could do.

20  
21 Ms. Robbins asked where the existing refuse container was on the site and Mr. Tompkins said  
22 there really is not a location for one currently. She asked if they were going to have one and Mr.  
23 Tompkins said they had not discussed whether an actual large dumpster would be needed or if  
24 they could get away with using a small, residential style dumpster that would just get pulled out  
25 to the drive. He added that the details of this have not been discussed yet. Ms. Robbins told him  
26 if he decides that there will be a refuse container, to put it on the plan. Ms. Gee said there are a

1 couple of places where one would fit; there seems to be the space. Mr. Campbell said, with the  
2 uptick in employees, that may be some type of requirement. Ms. Robbins said they have to be  
3 careful because this is frontage on Route 376, where the refuse container would have to be  
4 screened, either with fencing or landscaping. They also do not want to be too close to the  
5 residences because it can be noisy. She said it would be helpful to know if they do plan to have a  
6 refuse container and the location of it. Mr. Tompkins said they would do that. Mr. Eickman  
7 asked Ms. Robbins if that could be a condition, with her review, as the Town Planner and she  
8 replied Yes. Mr. Tompkins said a sketch could be provided for this after it is looked at. Ms. Gee  
9 said there is the replacing of the screening, where the bushes are being removed, on the East side  
10 and the frontage invisible to Jay Lane. Ms. Robbins said Yes. Mr. Tompkins asked if the bushes  
11 were to be replaced just on the East side, Jay Lane, and are bushes wanted where they are being  
12 removed on the North side, which is also Route 376. Ms. Gee said she thought he had said those  
13 bushes were being replaced on the Route 376 side. Mr. Tompkins said he misspoke when he said  
14 they would be removed, but, if possible, he could see if the bushes could just be moved. He said  
15 it would be the same for the ramp on the East side; they can be looked at to see if they can be  
16 removed, replace them, or just put something new in there. He said that is fine, and either one  
17 can be looked at. Ms. Gee said it could be tight with the driveway and maybe a planter would  
18 work.

19  
20 Ms. Gee asked about the ARB, saying the profile, nor the color of the building is changing. Mr.  
21 Tompkins said the existing building is brick and, obviously nothing is planned to change that.  
22 They are removing a couple doors in the front and on the South side there are a couple of  
23 window sizes that changed. Other than that, he said they are not changing the color or doing  
24 anything to the exterior. Ms. Gee asked about the color of the windows and Mr. Tompkins said  
25 the color would remain the same and match the existing windows that are there.

1 There were no additional comments or questions from the Board or Town Professionals. Mr.  
2 Eickman said, unless there are any objections, this would proceed to a Resolution.

3  
4  
5 **RESOLUTION OF AMENDED SITE PLAN APPROVAL**

6  
7 **NAME OF SITE PLAN:** Valley Pediatric Dentistry

8  
9 **NAME OF APPLICANT:** Robert Hourihan

10  
11 **LOCATION:** 1557 ROUTE 82, EAST FISHKILL (6457-03-473205-0000)

12  
13  
14 **Resolution Offered by Planning Board Member Lori Gee**

15  
16 **WHEREAS,** the above referenced applicant applied to the Town of East Fishkill  
17 Planning Board for an amended site plan approval for an existing dental office, and

18 **WHEREAS,** the applicant is proposing to add administrative offices in the basement of  
19 the existing building and construct handicapped ramps at the east and west building entrances to  
20 meet building code requirements;

21 **WHEREAS,** the site has 38 parking spaces and contains sufficient parking to  
22 accommodate the dental practice and the addition of the basement administrative offices;

23 **WHEREAS,** the proposed action is a Type II action under SEQRA and no further review  
24 is required;

25 **NOW, THEREFORE, BE IT RESOLVED,** that the Planning Board approves the Site  
26 Plan submitted by the Applicant's professional, Mauri Architects, P.C., dated February 8, 2021  
27 with the following conditions:

- 28 1. Location of refuse container to be shown on the site plan.  
29 2. Landscaping to be reviewed and approved by Town Planner.

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**BE IT FURTHER RESOLVED**, that within five (5) business days of the adoption of this Resolution, the Chair or other duly authorized member of the Planning Board shall cause a copy of this Resolution to be filed with the Town Clerk and a copy sent to the Applicant/Owner.

Resolution Seconded by Planning Board Member Richard Campbell

The votes were as follows:

Board Member Lori Gee	Aye
Board Member John Cutler	Absent
Board Member Ed Miyoshi	Aye
Board Member Sarah Bledsoe	Aye
Board Member Christopher Tamulonis	Absent
Board Member Richard Campbell	Aye
Chairperson John Eickman	Aye

1  
2 **SKETCH PLAN:**  
3

4 5. #2021-004 **75 Harrigan Road** (6456-01-090908) Applicant is requesting the Planning  
5 Board consider approving a parcel formerly part of the proposed but never constructed Dutchess  
6 Turnpike Thruway as a buildable lot.  
7

8 Louise Rabasco was present for the matter.  
9

10 Ms. Robbins shared the plan with her screen and gave a short overview of the matter. While  
11 pointing out a parcel, said that, in the 1970's or 80's there was a proposed Dutchess County  
12 route. Mr. Miyoshi said it is County Route 11. Ms. Robbins said there was a paper road for the  
13 subdivision and pointed out where a highway was to go in behind the lots. When the subdivision  
14 was initially contemplated, the lot she pointed as part of the subdivision, was not buildable. She  
15 said it is 10.9 acres and the applicant is requesting that the Planning Board consider improving it  
16 a buildable lot. She pointed out the drainage area, saying she did not know how it now functions,  
17 but said there would need to be some type of crossing, some sort of drainage. She saw this on the  
18 aerial and the filed map, as well.  
19

20 Ms. Gee asked about the zoning and Ms. Robbins replied that it is all R-1. She showed where the  
21 paper road goes, between 2 lots, #32 & #33. Ms. Bledsoe asked if that was the access to the lots  
22 from there, and Ms. Robbins deferred this to Ms. Rabasco to talk about the other location where  
23 there is potential access.  
24

25 Ms. Rabasco said there is a third entrance. It is a 10.9-acre lot, with a flag lot entrance off  
26 Harrigan Road, giving it the address of 75 Harrigan Road. She said it is a very difficult access,  
27 with a grade that is too high and it goes over wetlands. Once one goes over the wetlands, she said  
28 one has to chisel into a mountain ledge and, when getting atop of that, where the property would  
29 begin, to start the 10 acres, it is only 152 wide. She said this makes for a very difficult home site.

1 Because it is so large, she said she did a little digging, and found that there are 2 paper roads on  
2 Filed Maps from 1982 that would give her access. The one that she would prefer to use, which  
3 would make the most sense, would be where Ms. Robbins was pointing, lots #31 & #32, which is  
4 mailbox #38. She said there is another entrance if one goes up a little further, around lots #40 and  
5 #41, which is mailbox #16. She would prefer to come in from Flower, near the lots that are 30s,  
6 because it is already cleared, for the most part, been driven on and marked. She said when she  
7 would come in from that side, the property is 252 FT wide. She said it would be a better  
8 homesite. She is only going to build one home on this, a family homestead, and this part of the  
9 property would give everyone involved, including herself, the most privacy. She said it is  
10 wooded, in the back and there is the other thumbprint where it says “reserved, extension strip not  
11 a buildable lot”, which is like a little postage stamp shown on the plan. She said it gives more of  
12 a buffer for any of the surrounding neighbors, would be an easier entrance, easier driveway, one  
13 house, more taxes for the community to collect, and she would like to make her way back into  
14 Dutchess County.

15  
16 Ms. Gee asked if there was a map that showed a little less detail so the angle in could be seen.  
17 Ms. Rabasco said the Dutchess County parcel map showed it very clear as it doesn’t have all the  
18 writing on it. She said she did not think he was in the Zoom meeting this evening, but last week  
19 she spoke with Rick Croniser, who did not think this would be objectionable, coming off Flower,  
20 using the paper 50 FT, and coming in that way. She said they talked about setbacks and she is not  
21 building a large house, so there is plenty of room on 10 acres to put a small house.

22  
23 Mr. Eickman asked how the paper street was currently owned. Ms. Rabasco said it was going to  
24 be dedicated at a Town of East Fishkill Planning Board meeting many moons ago, but the Town  
25 did not dedicate it and it went back to the original developer. The 10.9 acres, being the last lot of  
26 the developer, went back to the original lot. Ms. Gee said if there are 10 acres and 2 access points

1 that work, why wouldn't there be 2 houses. Ms. Rabasco said she would love to give half of it to  
2 her mother and half to herself, but the Town said no. Mr. Eickman said they haven't said no yet  
3 and Ms. Gee said this is the first time it is before the Planning Board. Mr. Miyoshi said he thinks  
4 she is talking about the setbacks with the only 100 FT corridor, rather than the 250 FT on the far  
5 end. Ms. Rabasco said, to be honest, she went to the Town's Building Department about 9 or 10  
6 months ago. She was pretty much told, flat out, No and said she is stubborn, so spent 3 hours  
7 going back read about 22 deeds, and she found this Filed Map, the paper road, the deed and came  
8 back to the Town a few months later. Corona happened and she said now she is here. In a perfect  
9 world, she said she would love to split it in half and give her mother 1 five-acre parcel and she  
10 would take the other, and she would be tickled pink.

11  
12 Mr. Eickman asked Ms. Rabasco how these roads have been maintained; were they maintained  
13 by the adjacent property owners. Ms. Rabasco replied that one of the property owners, near  
14 mailbox #16, for the lots #40-#41, when one drives by it can be seen that they mow it as a lawn,  
15 but also drive down it. In the summer she said she spent a lot of time looking at the property and  
16 walking it to get to know it and to see what would be the best place to build. Also, to keep the  
17 privacy that people are used to and to give herself some privacy too. So, as far as maintaining,  
18 she said they are mowing it as a lawn, and further down, near the 30s, it is pretty much just a dirt  
19 path.

20  
21 Mr. Eickman asked Ms. Rabasco how she proposed to gain ownership of that, if she could use it  
22 for access. Ms. Rabasco responded that her understanding, and that of her attorneys, is that she  
23 does not have to gain ownership. She said it is actually hers because, when it was proposed to be  
24 dedicated to the Town of East Fishkill, they said No. If there was an offer of dedication and the  
25 Town said No, then it obviously didn't get dedicated and stayed attached to that. Mr.  
26 Cunningham said one outstanding issue is that the paper is that the neighbor is maintaining it and



1 would have ownership of it by Adverse Possession. Ms. Rabasco said that they would have to  
2 start an Adverse Possession and if they did start this, she would be one of the people that would  
3 be objecting to their Adverse Possession, because they have had 10, 20, 30 years to do something  
4 about it. She said, now that she is trying to develop the property, they would have no right to it,  
5 unless she did not object. She said she knows this for a fact, since she just finished an Adverse  
6 Possession in Catskill. Mr. Campbell asked if the road was a separate parcel and Ms. Rabasco  
7 replied that there is no SBL, nothing; it was just on a Filed Map Ms. Gee said it was a proposed  
8 Dedication that never happened and that it probably reverted back. Mr. Campbell said he would  
9 think it would revert back to ownership of the township. Ms. Rabasco said they denied it. Mr.  
10 Campbell said if they denied it, it is separate and taxes were not paid, doesn't the town take it  
11 back. Ms. Rabasco said there is some misunderstanding. Someone drew this map, did a great job,  
12 proposed the dedication, and the dedication was denied, which is clear. She said what should  
13 have been done was to re-do the Map, before it was filed, but it was 1982 and they did not.  
14 She said that both 50 FT rights-of-ways, go up and around. Ms. Robbins drew in the parcel  
15 access map larger and Ms. Rabasco said, to start at the lower leg, go up and see that it goes up  
16 and around, like a horseshoe; follow lot #38, #35, 34. Ms. Gee asked the width there and Ms.  
17 Rabasco responded that it is approximately 25 FT. She said she was on the computer today trying  
18 to measure it and to answer the questions. Ms. Bledsoe said, so it comes up and around. Ms.  
19 Rabasco said that part goes down to Flower again. Mr. Campbell asked who has ownership of the  
20 entire "horseshoe" and Ms. Rabasco said it reverts back to her, the 10.9 acres. Mr. Campbell  
21 said, to him, there is a question of ownership of that. Mr. Eickman asked Ms. Rabasco if was  
22 included on her deed. She replied that she has not yet gotten the title report back and she is  
23 supposed to close any day now. She has been in contract and was hoping to solve this before she  
24 closed but now she is biting the bullet, and close, since time is of the essence. Mr. Campbell told  
25 her the survey would show if she owned that property. She has not had a survey done, but said  
26 she is told by all the reading and all the information she has gathered over the last 10 months or

1 so, based on the reading and Planning Board notes where she sat in on this with someone in the  
2 Twon Hall office, it went back to the owner of what she believes was called “First Dutchess  
3 Estates”. She said this is the remaining land of First Dutchess Estates. Ms. Gee said this is more  
4 of a legal question. Mr. Campbell said if there is a closing on a piece of property and no survey,  
5 there is no extension on it; the survey tells exactly the lot-lines and their directions. He said it  
6 does not change.

7  
8 Ms. Gee told Ms. Rabasco that is a legal issue that she would have to deal with and the Planning  
9 Board has no purview to give her this land; She would have to get it from a legal perspective.  
10 Ms. Rabasco said at this point, she does not care if she owns that land or does not own that land;  
11 there is law. She told Mr. Cunningham she has been told, that a property that has a border on a  
12 paper road, on a Filed, recorded Map, that leads to a legal, public road, is allowed to have an  
13 access over it, as an easement or right-of-way. She said, even if she could not prove ownership,  
14 which she is pretty sure she can, but even if she couldn’t, based on that law alone, she should be  
15 able to use either one of those paper roads to access her parcel. She told Ms. Gee that it is the  
16 same idea as the landlocked parcel that she was talking about in a previous project this evening.  
17 Mr. Campbell said it is not, because there was a right-of-way. Ms. Gee asked that the map be  
18 zoomed up to the top and said Ms. Rabasco had said there was a hardship in building the access  
19 where it is currently assigned. Ms. Rabasco said it is so bad, and would cost more than the house  
20 itself. She said she would have to get the DEC, there is water, you name it. Ms. Gee said, to be  
21 very-very clear, this situation is not the same as the prior one; it is similar. With this being less  
22 buildable, she told Ms. Rabasco she would have to see her availability to access through the  
23 paper road. She said she did not know the law, or if the Planning Board has purview over this.  
24 Mr. Cunningham said he thought Ms. Rabasco would need to confirm that she has the rights to  
25 access; If the other owners did not claim Adverse Possession, he said they may have had rights to  
26 the center line in their deed, which is in most deeds. He said he thinks there are immense

1 difficulties with this lot and he wants to put this out there; he said he wanted this to be made  
2 clear at the initial meeting. He thinks there are access issues, title issues and also engineering  
3 issues. He said there is a section of the Code: Section 163:19 and it lists all the requirements for a  
4 lot. He said he does not think she should engage with a professional yet, but he is not sure she is  
5 going to meet all of these. Ms. Rabasco said they have consulted with an engineer, they looked at  
6 the lot, in detail. She said her only obstacle, based on that Code, is the Planning Board  
7 recognizing her right on the paper road.

8 Ms. Bledsoe asked if the intention of this “parcel”, from day one, was that it was the road, how  
9 can it be considered a lot. Mr. Cunningham said that right now it is not a buildable lot and that is  
10 why Ms. Rabasco is before the Board. The Planning Board would have to determine that it is a  
11 buildable lot, and that it meets the requirements of the Code. Ms. Rabasco said she felt  
12 differently. Ms. Bledsoe said then the question right now is if the Planning Board wants to grant  
13 her access and determine that this is a buildable lot. Mr. Cunningham said Yes, and the drawings  
14 would have to be reviewed by Mr. Bryant, the Town engineer and the consultants, to make sure.  
15 Ms. Gee said this is just a review of a sketch plan and the Board is not making any commitments  
16 right now, to be clear, and it is being looked at as a sketch.

17  
18 Ms. Robbins said, when this was subdivided into a subdivision, all of the lots were considered  
19 buildable lots, under SEQR. She said there was an analysis for these being house lots. She  
20 pointed out what was intended to be road. Ms. Rabasco said that nowhere on the final  
21 subdivision map does it state that those remaining lands are not to be built on, nor anywhere in  
22 the file. Mr. Bryant said it was not designated as a lot either. Ms. Rabasco said it also wasn't  
23 designated as a road on the filed map; it doesn't say it is going to be a road. Ms. Rabasco said she  
24 did not mean to sound combative, but she spent hours reading everything about this lot.

1 Mr. Setaro said he and Mr. Bryant were discussing various projects and this one was talked about  
2 briefly. He said he does not know when this was subdivided, but, it was back in the day. There is  
3 currently a Health Department regulation that says there can be 49 building lots without having to  
4 have the lots connected to central water and sewer. He said they would have to take a look at the  
5 Filed Map to make sure there are no notes on it, or any records of the prior Health Department  
6 approval that would prohibit that lot from being built on. Ms. Rabasco said there are. He said at  
7 the time there was a regulation in place that allowed only 49 lots without having to provide  
8 central water and sewer. He said they would go through the file. Ms. Gee asked Mr. Setaro if the  
9 original subdivision was 49 lots, and not including this lot. Mr. Setaro said, exactly. Ms.  
10 Rabasco said they had this lot having access off of Harrigan and she is saying that, having to  
11 come off Harrigan... Ms. Gee said the access road would not matter in terms of the particular  
12 part of the Code that Mr. Setaro was referencing right now. She said that is to do with the total  
13 number of lots in the entire subdivision, regardless of access points. Mr. Setaro said he does not  
14 know if that requirement was in place when this was subdivided and it is something that would  
15 have be looked at. Ms. Gee said if he thinks it was 29 lots, it probably was. Mr. Setaro said  
16 Right, one would think so. Ms. Rabasco told Mr. Setaro that, what Ms. Gee is saying, by giving  
17 her access through Flower, but leaving the legal address as 75 Harrigan, she does not have a  
18 problem keeping her mailbox at 75 Harrigan, she just wants to be able to get in where it makes  
19 more sense. Ms. Gee said this is something different; it is not about the access point. It is literally  
20 about if a 50<sup>th</sup> well and septic can be placed within this body of land that has already been  
21 subdivided. Ms. Rabasco said ok and Mr. Setaro added "well said". Ms. Gee told Ms. Rabasco  
22 that it is different than the access point issue and Mr. Setaro is bringing to her attention that there  
23 is an issue with the Health Department and the Town Code that she would need to explore and  
24 make sure she is comfortable with, before she is able to move forward. Ms. Rabasco said that is  
25 fine. Ms. Robbins pointed out on the Filed Map where there is a crossing of what is called an  
26 intermittent stream and she can see it can be seen on the aerial. She did not know if there was a

1 culvert, but said it looked like there is a crossing for the water. Ms. Rabasco asked for Ms.  
2 Robbins to show her. Ms. Robbins said it was called an intermittent stream but she does not  
3 know what it is like now. Ms. Rabasco said she walked it and it was just a little bit wet, just  
4 before the last snowfall; She said it wasn't swampy or anything like that; it looked like a little  
5 stream. Ms. Robbins said there is a permit required if that is going to be crossed. Ms. Rabasco  
6 said she would not have to cross it. Ms. Robbins told her if the driveway comes down there, she  
7 would have to cross it. Ms. Rabasco apologized, saying the way it was looking on her phone, it is  
8 upside down and Yes, she would come right in and hang right, over to where it says "to the west"  
9 and the house would be pretty much at the word "the". Ms. Gee asked where it would be oriented  
10 and where would it face. Ms. Rabasco said she would like to have the house faced so that the  
11 back yard would be "to" and the front yard would be "West", so that she is not looking at  
12 anyone's back yard and they are not looking at hers. Her intention is to keep as many trees as  
13 possible; she really wants privacy and she also wants to give the people around her privacy.

14  
15 Ms. Gee asked Ms. Robbins if it is being said that this is buildable now, as it stands. Various  
16 members said "No" and Ms. Robbins said, as she said before, that she does not know if this  
17 underwent SEQR as a lot, and it is not known about the environmentally sensitive lands and she  
18 does not have all that information. Ms. Gee noted that she saw some pretty tight topo lines  
19 towards the middle there. Ms. Rabasco said that is why she was saying it is very-very difficult to  
20 come in that way, and then to build over that. Ms. Robbins said it is not a buildable lot so she  
21 doesn't know what that means legally, about the driveway crossing it. Ms. Rabasco said to look  
22 at the "dot-dash" and that little postage stamp to the right, they are saying that that area cannot be  
23 built on. It is because the way they proposed the road to go through it, again, from what she was  
24 told, she thinks it may have been Ms. Robbins who told her, that this road was going to possibly  
25 going into the subdivision, over the line, where the cul de sac is. She said the road was to go  
26 from Flower, almost into Palen Road. Ms. Bledsoe asked if it was Cove Drive. Ms. Rabasco said

1 she did not know the name of the road. Ms. Beldsoe asked where the road was supposed to start  
2 and stop. She asked if there was the intention originally for there to be access from Flower Road  
3 onto this road. Mr. Miyoshi said this was supposed to be part of County Route 11, which was  
4 basically going to route traffic from IBM up to Poughkeepsie, back in the early 80's when they  
5 were talking about using some of the railroad line. He said it was later turned into the Rail Trail.  
6 He said they were going to connect it to get from IBM over there and a lot of neighbors were  
7 called that this was going in the back of them. They were very upset and protested against it.  
8 Eventually that plan went away and it was decided not to move forward. He said now there is the  
9 Rail Trail instead. Ms. Beldsoe said, so this preferred access was from Flower Road onto the lot  
10 and she asked if it was intended to be an access to the lot/road. Ms. Rabasco said she wasn't  
11 around then; it is a great question. Mr. Miyoshi said he did not know what the paper roads and  
12 why they were put there. Ms. Gee asked Ms. Robbins to read what it said on the extension "strip  
13 reserved for Flower". Ms. Robbins read it as 50 wide strip reserved for future road". Ms. Gee  
14 told Ms. Bledsoe that it wasn't intended to be a road connection. Ms. Rabasco said, that lot, or at  
15 least that end of the lot, would have very easily been accessed. Ms. Gee said it would have  
16 accessed what would have become a road, at that point, from what Mr. Miyoshi was saying.. Mr.  
17 Campbell said right, the Dutchess Highway. Ms. Gee said it wasn't intended to access residential  
18 houses, but intended to access the new County Route 11. Ms. Rabasco said she was also told that  
19 it was going to go across the property, and into what is looking like Frederick and Lewis Richard  
20 Dudley, Griffen. She said there is housing behind the Flower Lane development, in between  
21 Flower Lane and Palen Road there is another development, another subdivision. She said it is  
22 right around where it says "reserved extension strip", there is a cul de sac on the other. Ms.  
23 Robbins switched to the aerial map, which was thought to be more helpful. She pointed out the  
24 specific strip. Ms. Rabasco said obviously there is a house on it now, but she is told that it was  
25 going to go straight into there and would have dumped into Palen, which is also another way to  
26 get to IBM. Mr. Campbell said if one looks at the previous shot it looks like there was just

1 accessibility to the Dutchess Highway. Ms. Gee said Yes, it wasn't going to be an overpass or  
2 underpass and it was going right to that road. Mr. Campbell said Yes, that road, Dutchess  
3 Highway.

4  
5 Ms. Robbins looked to Mr. Cunningham, saying, for the Planning Board purposes, the Board  
6 would need to determine whether or not it is a buildable lot. Some sort of engineer plan would be  
7 needed and she would need to prove that it could meet Section 163:19. Mr. Cunningham said  
8 that is correct; it would have to be surveyed and a survey for a 10 acre parcel is going to be very  
9 expensive. Ms. Rabasco told Mr. Cunningham that he seemed to be really concerned about her  
10 finances. He told her he just doesn't want her to go down a path; and that she said she was about  
11 to close. Ms. Rabasco said, understood but, with all due respect, she would like the Board to help  
12 her to understand what the Board wants her to do, to make this a buildable lot, and she is happy  
13 to comply. She said let's not have anybody worry about the finances. Ms. Gee said she thinks  
14 what she is hearing from the Board is that they are concerned that she may not be able to make  
15 this buildable, caveat emporia. The Board wants to be sure she understands she may not get  
16 there; she may not be able to make the hurdle. Mr. Campbell said it is "buyer beware", to close  
17 prior to and then come back to the Board, and have it not be buildable. He said the Board is here  
18 to help her. Ms. Rabasco said she understands, but it is very important for her to get her mom  
19 back over to Dutchess County where wants to be, and to grow old. She said it is affordable for  
20 her, even if she has to put some money into it., to develop it. Ms. Rabasco's first hurdle, she said,  
21 is that it is not realistic to come in off of Harrigan, but if they can get past that. Ms. Gee told her  
22 that was called out to her, the paper road, certainly as an access road, which is a legal issue that  
23 she would have to tackle. She added that Mr. Setaro has called out to her that she has a potential  
24 issue with the septic. Ms. Robbins is calling out to her that there is a section of the Town Code  
25 that defines all of the things required to have a buildable lot, assuming the other 2 hurdles can be  
26 met, which are not necessarily obliques on but if she can, all the other requirements of the Code

1 have to be met for a buildable lot, and they want to be sure she understands what they are. Ms.  
2 Rabasco said Yes, she is very familiar. Mr. Setaro told her he really thinks she should have a  
3 discussion with the County Board of Health too, in regards to the parcel; whether it is a lot or  
4 whether it is not a lot and how they would view it in terms of Health Department approval for a  
5 single family lot there. He said he would suggest that either she, or her engineer contact them.  
6 Ms. Rabasco said she actually has already reached out to them, almost 10 months ago and they  
7 had no problem coming out and doing perk tests. They said she had to get a building permit first,  
8 she said, obviously, and this is how it all started. She put the offer on it, contingent upon Board  
9 of Health approval she said a smart thing to do. She went to the Board of Health and they told her  
10 she needed to apply for an access permit, a building permit, because they were not going to climb  
11 and go through Harrigan Road to do the perk test and have to get a machine up there to dig the  
12 perk holes. She said that she tried to find another access, did all her digging around, found the  
13 paper road, and that is what led her to the Planning Board. Using the 50 F right-of-way and the  
14 paper road, she said would give her the access to do the Board of Health approval. They were  
15 pretty confident, with 10.9 acres, that they would get a perk somewhere. She said she is only  
16 building a 2-bedroom house and an enormous septic would not be needed either.

17  
18 Mr. Bryant commented to Mr. Setaro and Ms. Robbins that he is looking at this on the board. On  
19 Harrigan there is a 50 FT frontage and the paper streets, if that is what they are, are something on  
20 the order of 50 FT. He said the Town Code is a minimum of 125 FT frontage on a Town road, for  
21 a lot. He said it cannot be considered a flag lot at this stage because that would have had to have  
22 been incorporated into the original subdivision. Ms. Rabasco told him it IS a flag lot and she is  
23 just asking him to move the flag. Mr. Bryant told her No it is not a lot and there is no number  
24 designation for a lot; it is not an approved lot and it does not have frontage. He said he agrees  
25 that it was an original flag lot that was part of the original subdivision, and if it was lot #50, or  
26 some other number, then Yes a flag lot would have been permitted. He said, as he looks at it, it is



1 not a lot that is part of that subdivision any longer. He said it wouldn't matter if it had become a  
2 highway at some point but, to create a building lot he thinks there is a frontage issue, as well. He  
3 asked if anyone else had any comments on this. Ms. Robbins said that initially, they were her  
4 concerns about this potentially not being a lot and that was one of the things that she thought  
5 about and if it was intended originally to be a buildable lot. She said she could not open to the  
6 legality of paper roads and the other point of access but agreed with Mr. Bryant that it was never  
7 subdivided as a flag lot. Ms. Rabasco said ok and asked then who makes the determination on  
8 whether it is or is not a flag lot, and who makes the determination on where she goes next. She  
9 said she is not going to give up and she will do what the Board wants her to do; just to tell her  
10 what they want her to do. She said she needs this lot for her mom.

11  
12 Mr. Eickman asked Ms. Robbins if there was no way to turn this into a flag lot and that is the  
13 part that he is not quite clear on. He said he thinks the recommendation was for Ms. Rabasco to  
14 go to an engineer and determine if this lot met all the requirements considered in the Code and  
15 that particular section that was cited, and the question as to whether it would be deemed a flag lot  
16 is something that the engineer would probably come to the Town to ask about. Ms. Robbins said  
17 Yes; they would come to the Town, look at the size, how it could be oriented to meet all the zone  
18 requirements. Once consideration is made for environmentally sensitive lands, the stream that  
19 goes through the site, and whether or not they can actually use this access (pointing to it) and to  
20 get a permit to even cross it.

21  
22 Ms. Gee asked Ms. Robbins, if the access is through a paper road, is that then saying they don't  
23 have to worry about whether or not it is a flag lot. Or is that paper road, from what the applicant  
24 is telling the Board, it sounds like she is trying to make that part of the paper road part of her  
25 parcel. Ms. Robbins said it would still have to be a flag lot, because there is not the full 125 FT  
26 frontage. Ms. Gee said she gets that, but where she is going though, at the point where the paper

1 road becomes part of this, she was not saying it can happen, but legally, if that is what she  
2 achieves, at that point wouldn't that be the discussion as to whether or not the addition of that  
3 property, the horseshoe, makes this a flag lot now, in today's standards, based on a change to that  
4 lot line definition. She said she agrees in the original subdivision, it was not a lot even if it looks  
5 like it has frontage, it doesn't meet flag lot, because it was not defined as a buildable lot at that  
6 time. It was intended to be dedicated for another use. She continued, saying, Now, starting fresh,  
7 this exists and there is a paper road that may or may not connect to it, and the applicant has to  
8 figure out the legality of that, but if it does connect, does that reopen the discussion as to whether  
9 or not this meets the flag lot condition. Does reopening it bring the discussion if it becomes the  
10 50<sup>th</sup> lot in a subdivision that can't have well and sewer. Ms. Gee said she is just trying to figure it  
11 out and she doesn't know where to go with all of those questions.

12  
13 Ms. Rabasco told Ms. Gee that she had pointed out something very interesting. If she can prove  
14 that the paper road is, indeed, a paper road, just not paved, then that lot has 252 FT of road  
15 frontage on the paper road. Ms. Gee told her she does not disagree with that statement, but she  
16 cannot tell her that the paper road is legal, or not legal, whether it belongs to her or not. She said  
17 she has no idea and it is not something that is the purview of the Planning Board. Mr. Bryant  
18 said, to that argument, the Town road would have to be extended to a Town road standard, to  
19 establish the 125 FT of required frontage. Ms. Rabasco said she spoke with the Highway  
20 Department also, and she was told that she wouldn't necessarily have to pave it, but she could  
21 bring it up to private road stats. Ms. Robbins said that is the difference between zoning and  
22 meeting the zoning for actually creating the lot and meeting the requirements for putting a  
23 driveway in. Ms. Rabasco said Rick Croniser thought it would just be best to use it as a  
24 driveway, because it would only be 12 or 20 FT wide. Rather than have to clear the whole 50 FT,  
25 she said the neighbors would probably prefer she used it as a driveway, versus a road. She said  
26 she will comply, either way. Mr. Bryant said Rick Croniser is a building inspector and doesn't

1 have any jurisdiction over the Planning Board. Ms. Rabasco said she understands, she is just  
2 saying that it was his suggestion to use it as a driveway, so they would not have to clear 50 FT.  
3 Mr. Bryant reiterated that Mr. Croniser has no jurisdiction on the site.  
4

5 Mr. Eickman told Ms. Rabasco that he thought the Board had given her a lot of issues that she  
6 could take a look at. He said there are serious concerns and that the Board is trying to look out  
7 for her well-being on this. Ms. Rabasco said she appreciates this and would just like a punch-list  
8 of things that the Board would like for her to accomplish to get this to be a recognizable and  
9 buildable lot. Ms. Gee told her that she thinks what she is hearing from the Board is that they do  
10 not have a punch-list to give her, because she is being told all of the issues. It is not up to the  
11 Board to tell her to do “these 10 things, and Yes it is buildable”, She told her that she has to do  
12 the legwork to find out the environmentally sensitive lands, the survey, whether or not the paper  
13 road is part of this parcel, or what would need to be done to make it a flag lot; it is a flag lot, to  
14 make it work. She told Ms. Rabasco that the Board cannot tell her a list of things, since the Board  
15 does not know what it will produce for her. Because the environmentally sensitive lands was  
16 layered in, it is not just the slopes, but the stream on the property. She said the Board is trying to  
17 give her the benefit of their experience, to say it looks very tough to the Board and they have  
18 given her everything they can think of, to help her understand how tough it is. She told her if she  
19 wants to continue forward with it, she is doing that with a very strong warning from the Board  
20 that they don’t know that she can ever get this to be a buildable lot. Ms. Rabasco said she  
21 understands and appreciates that very much. Going on to Ms. Robbins concern about the stream,  
22 to the bottom, then that is when she would say to look at the middle entrance, which it would  
23 then be a heck of a long driveway. Ms. Robbins pointed out the entrance and said that one would  
24 be the most problematic, since that is not even 50 FT wide; it is only 25 FT wide. Ms. Gee said it  
25 looks fairly close and she knows the lines are not exactly where they are but it looks like it is  
26 fairly close to one of the houses and the other house’s driveway. Mr. Campbell said, again it is a

1 question that the survey will tell some. He thinks that the applicant really needs to speak to a  
2 professional engineer to really give her some guidance as to if this lot is buildable. He said a  
3 survey will determine if she has the possibility for any of these entrances at this point, except for  
4 the Harrigan Road one.

5  
6 Ms. Gee said that, legally, the accessibility to the horseshoe is not the purview of the Board and  
7 not of the professionals; it is more of an attorney question, a legal question, versus the physical  
8 accessibility of any of these entrance points. Ms. Rabasco asked the Board, based on that, legally  
9 who would they want her to confer with. She said she has already spoken with attorneys who  
10 thought this was a doable thing. Mr. Eickman asked her if they would give her a written opinion  
11 of that and she replied "100%". Mr. Eickman asked if they had done that and she replied that she  
12 had not asked them to yet, but it wouldn't take much. Mr. Eickman told her he thinks she would  
13 need that to have some assurances that she could rely on to actually gain title to that and use that  
14 land. He said if he was in one of those houses and they started to lay some asphalt down, next to  
15 his property, he would probably be the first person to try and stop it asking what is going on here.  
16 He said he thinks she has some issues and she needs to have something in her hand that says Yes,  
17 this is her property and then an engineer is going to rely on that. Going with Mr. Campbell's  
18 statement, he said the survey will include the property that she legally owns, according to an  
19 attorney's opinion. Mr. Campbell said if one looks at that middle entrance, that was being  
20 pointed at, the one side of that line literally runs over the driveway of that home. He told Ms.  
21 Rabasco she is talking about that being 25 feet, but it is even less at that point. He said he sees  
22 major issues and, again, it is just his own opinion, but he thinks she definitely needs the survey  
23 engineer and a determination needs to be made on the horseshoe space. He reiterated that a  
24 survey tells it exactly. If one is going to buy a piece of property, the survey tells what is owned.  
25 The other access points, again, would have to be determined. He said the ability to build on the  
26 lot through an engineer professional's opinion and, obviously the Codes of the Township. He

1 added that there are a could of things here and he does not say that there is a bullet point list that  
2 is put together, but it would start in the hands of a professional. Ms. Gee said it would be a land  
3 type professional, as well as an attorney. She said, to Mr. Eickman's point, she is still concerned  
4 that there would be a legal battle with neighbors who are used to living there and seeing their  
5 land the way they currently use it and she would be disturbing that. Ms. Rabasco said she  
6 appreciates what she is saying but, on the other hand, this property was on the tax auction 6 times  
7 so, at any time, with all due respect, at any time in the last 6 tax sales, any of those neighbors  
8 could have scooped it up for pennies. Mr. Campbell said then that is telling something. Ms.  
9 Bledsoe said it is not a buildable lot. Mr. Eickman said they are using it at no cost to them and  
10 other Board members agreed. Mr. Campbell said to take some advice from the Board and Ms.  
11 Rabasco said she really does appreciate it; she is just trying to get back over to this side; she is  
12 living in Orange County now, her daughter is over there, and her mom wants to be there  
13 (Dutchess) so she is trying to have a little bit of a "Hail Mary" for this and see what can be done  
14 to make this. Mr. Campbell told her it starts in the hands of the professional engineer and an  
15 attorney and then take it from there forward. He suggested definitely getting a survey done, in his  
16 opinion. Mr. Eickman told her Ms. Rabasco he would sit down with that engineer and map all of  
17 the issues she has heard today, and find out what other issues he may be aware of, and take them  
18 one at a time. He said she wouldn't want to just blow through this whole thing and find out she  
19 gets to the end after engaging a whole bunch of expense only to find out it can't be done. He said  
20 he thinks it is a step at a time as to how she wants to approach it, which would be a smart way to  
21 go if she has the time to do that. He added that it will take some time to get this done. Mr.  
22 Campbell said a very important point was already made right from the beginning, in his opinion,  
23 it is "buyer beware". Like she had said herself, he said this property had been up for tax sale on  
24 several occasions and he could not imagine if it had some kind of attraction to somebody, it  
25 would not have been bought one of those 6 times. He told Ms. Rabasco that the "buyer beware"  
26 should just resonate with her and that the Board is here to help; they are not here to hinder

1 people. Ms. Rabasco said she really appreciates it and there were great points brought up. She  
2 appreciates the input, but she has a little bit of a dream here and she is actually going to keep  
3 trying. She said she has spent several hours speaking to her engineer. They haven't pulled the  
4 trigger doing anything yet, because she did not have an opportunity to get in front of the Board  
5 and talk with the Board about what they were thinking, what they feel are obstacles, and now she  
6 will go back to him. She said she has already been back there on the site, dug some test holes, the  
7 perks and that she has done a lot over the last several months. As for the legalities of the paper  
8 roads, she is very confident, based on who she has spoken to, and that is not going to be an  
9 issues. The other 49 lot – 50 lot thing that now has just been brought to her attention, it never  
10 was before, but she said she would jump right on that tomorrow morning. Ms. Gee said there is  
11 the stream and steep slopes to make sure there are not too many environmentally sensitive lands  
12 here to preclude her from finding a building envelope to place the house. She told Ms. Rabasco  
13 that her professional could help her with that as well. She said she did, actually, and thought it  
14 would be more towards the wider end. Ms. Gee said she understands, but now the Board is  
15 calling her attention to the stream which, again, she told her she needs to make sure she is careful  
16 here. Ms. Rabasco said she agrees, and totally appreciates that.

17  
18 Ms. Bledsoe asked if it was correct to say that, of all of this 10 acre parcel, a minimum of one  
19 whole acre has to be considered buildable, concerning the topography and environmentally  
20 sensitive lands, a whole, entire acre has to be fully buildable. Ms. Robbins replied that it is not  
21 quite a full acre, it is more like three quarters of an acre; she doesn't know the actual formula.  
22 She thinks, in this case, it is kind of tricky and if this is going to be considered a flag lot, then  
23 actually 1 ½ times the minimum acreage is needed. She told Ms. Rabasco to be sure to look at  
24 the flag lot requirements, as well, when going through the zoning process. She does not see, if it  
25 were to be considered a lot, how it wouldn't be a flag lot, which means she is required to have 1  
26 ½ times the actual, buildable area, which does not include the flag pole portion of the lot. Ms.

1 Gee told Ms. Robbins it would really depend on the legal treatment of this road access, and that  
2 this a legal thing, it is not something this Board can advise on, but she is hearing the Board say  
3 she has a couple different paths that may be the right path here. She said she would have to figure  
4 that out and have a professional look at it with her, and have an attorney work with her to figure  
5 out what that looks like.

6  
7 Mr. Bryant said he knows it is 40 years, but asked if one path would be to see, if they want to  
8 claim this as a flag lot, wouldn't this have to go back to amend the Filed Map to make this lot  
9 #50, to sign off from the Health Department, that they would accept the 50<sup>th</sup> lot in order for the  
10 Board to consider this a flag lot. He said right now it is just a standalone piece of property and  
11 the only way to consider a flag lot would be to go back and amend the plan. Ms. Robbins said  
12 that is how she would think of it, but she is not sure if legally it is the right way; she is not sure.  
13 Ms. Gee asked if there was a way to have any municipal hook ups here that are accessible to this  
14 site; water, sewer. Mr. Bryant said No, not even remotely. Mr. Campbell said there are the  
15 setbacks from the other people and so many homes on either side of this lot, but how are the  
16 setbacks for the wells, comparatively to well and septic, with these other homes. Mr. Bryant said  
17 it is not a matter of finding an area that perks, but it is finding the right area that perks, so that  
18 there are not adjoining wells.

19  
20 Ms. Rabasco asked, if she were to find a way to somehow get into Harrigan, which she said is  
21 really tumultuous, would it then be considered part of this subdivision. She said Harrigan road  
22 has hundreds of house and there is not water and sewer. Mr. Bryant said No, but there is still the  
23 frontage issue of 125 FT. Ms. Gee said if that is flag lot then it is an issue. Mr. Bryant said the  
24 issue is if the flag lot is part of the subdivision and a flag lot can be created as part of a  
25 subdivision. He said the approach to take is going back to amend the Filed Map to the original  
26 subdivision, in his opinion, or, if it is looked at as a standalone lot, now there is the issue with the

1 frontage. He said either way it is not easy and without the frontage. Ms. Gee said there is the  
2 frontage if coming off of Flower. Ms. Rabasco said right, coming off of Harrigan is just like a ski  
3 slope. Ms. Gee told Ms. Rabasco that this is a really tough path, either way, and that she heard all  
4 of the Board's cautions. She is not sure that there is anything else the Board can caution her on  
5 that she can think of.

6  
7 Ms. Rabasco said she would get in touch with the Board of Health Department, she will consult  
8 her legal counsel, and she will speak to her engineer, and that she hopefully will see everyone  
9 next month.

10  
11 Mr. Cunningham told Ms. Rabasco, the Board can summarize where to go from here; he thinks it  
12 was a very good summary. He thinks that, before she comes back to the Board she would have to  
13 have full engineer drawings, based on a survey, and that she would also submit her title report.  
14 He said then the Board can look at some of the title issues that have been discussed. He said it  
15 would be a productive session with the Health Department. Mr. Bryant agreed she should speak  
16 to the Health Department. Ms. Rabasco told Mr. Cunningham if they don't close, then there will  
17 not be a title report but she understands what he is saying; he is looking for a legal description.  
18 Mr. Campbell told her she shouldn't close, she should have a survey before she closes too. Ms.  
19 Bledsoe said, and the title. Mr. Eickman told her she would have a title commitment. Mr. Bryant  
20 said there is a title report before a closing. Ms. Bledsoe said they have to and Ms. Gee said there  
21 could be a marked up title.

22  
23 Mr. Eickman told Ms. Rabasco that he hopes the Board sees her back; she has faced this with one  
24 of the most complex things the Board has looked at in quite awhile. She replied that she is  
25 promising she will be back next month. Mr. Eickman wished her well and she thanked the Board  
26 for all of their time.



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STONE RIDGE COMMONS

Ms. Robbins said that the Public Hearing for the STONE RIDGE COMMONS apartment complex had been re-adjoined to March 9<sup>th</sup>. It was done at the last meeting and she just wanted to remind everyone that it is on for this date; it is a regular meeting.

HOPEWELL SENIOR LIVING

Mr. Eickman reminded the Board they would also be taking upon HOPEWELL SENIOR LIVING. Ms. Robbins said that is correct and that they had asked to be moved to the March 9<sup>th</sup> meeting as well.

SHADY LANE

Ms. Robbins noted that she would get back to everyone on the site visit (for Shady Lane).

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**ADJOURNMENT**

**MOTION made by Lori Gee, seconded by Richard Campbell, to adjourn the Planning Board meeting. Voted and carried unanimously.**

**Respectfully submitted:**

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**Kathleen Mahodil, Meeting Secretary  
East Fishkill Planning Board**